

**AMENDED AND RESTATED  
LIMITED LIABILITY COMPANY AGREEMENT OF  
BRIDGEWAY ADVOCACY, LLC**

This Amended and Restated Limited Liability Company Agreement (this “**Agreement**”) of Bridgeway Advocacy, LLC, a Delaware limited liability company (the “**Company**”), is made and entered into effective as of June 2, 2020 (the “**Effective Date**”), by and among the parties designated on Exhibit A attached hereto and made a part hereof (such parties designated on Exhibit A attached hereto sometimes referred to hereunder individually as “**Member**” and collectively as “**Members**”).

**RECITALS:**

**WHEREAS**, the Company was formed on January 2, 2020 by filing the Certificate with the Secretary of State of the State of Delaware;

**WHEREAS**, the parties entered into a Limited Liability Company Agreement dated as of January 2, 2020 (the “**Original Agreement**”);

**WHEREAS**, prior to the Effective Date, the Company agreed to redeem the Membership Interest held by Cicely Danielle Simpson pursuant to the terms of a Membership Interest Redemption Agreement (the “**Redemption**”);

**WHEREAS**, immediately following the consummation of the Redemption, the Participating Percentage of each Member was as set forth on **Exhibit A** of the Joint Action by Written Consent of the Members and Managers of the Company;

**WHEREAS**, the parties desire to amend and restate the Original Agreement in its entirety as set forth in this Agreement.

**NOW THEREFORE**, in consideration of the foregoing, of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

**ARTICLE 1**

**DEFINITIONS AND INTERPRETATION**

**1.1 Definitions.** As used in this Agreement, the following terms shall have the meanings set forth below.

**Act.** The Delaware Limited Liability Company Act, as amended from time to time.

**Additional Capital Contribution.** With respect to each Member, the amount of cash and the fair market value of property (as set forth herein or as otherwise agreed by such Member and the Managers) contributed to the capital of the Company by such Member in excess of its initial contribution of capital to the Company.

**Adjusted Capital Account Deficit.** With respect to any Member, the deficit balance, if any, in such Member’s Capital Account as of the end of the relevant Allocation Period and after giving effect to the following adjustments:

(a) credit to such Capital Account any amounts which such Member is obligated or treated as obligated to restore with respect to any deficit balance in such Capital Account pursuant to Treasury Regulation Section 1.704-1(b)(2)(ii)(c), or is deemed to be obligated to restore with respect to any deficit balance pursuant to the penultimate sentences of Treasury Regulation Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

(b) debit to such Capital Account the items described in Treasury Regulation Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6).

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the requirements of the alternate test for economic effect contained in Treasury Regulation Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

**Affiliate.** (a) Any Person directly or indirectly owning, controlling or holding the power to vote 10% or more of the outstanding voting securities of an identified other Person; (b) any Person 10% or more of whose voting securities are directly or indirectly owned, controlled or held with power to vote, by such other Person; (c) any Person directly or indirectly controlling, controlled by, or under common control with such other Person; (d) any officer, director, member, manager or partner of such other Person; (e) if such other Person is an officer, director, member, manager or partner, any entity for which such Person acts in any such capacity; and (f) any spouse, lineal ancestor or descendant of such other Person.

**Allocation Period.** (a) The period commencing on the date hereof and ending on December 31 of that year, (b) any subsequent 12-month period commencing on January 1 and ending on December 31, or (c) any portion of the period described in clauses (a) or (b) for which the Company is required to allocate Profits, Losses, and other items of Company income, gain, loss, or deduction pursuant to Article 7 hereof.

**Business Day.** Any day that is not a Saturday, Sunday or a day on which the Company is closed for business with the public.

**Capital Account.** With respect to a Member, the capital account that the Company establishes and maintains for such Member pursuant to Section 6.4.

**Capital Contribution.** With respect to each Member, the sum of the amount of cash and the fair market value (as set forth herein or as otherwise agreed by such Member and the Managers) contributed by such Member as an initial contribution to the capital of the Company, plus any Additional Capital Contributions by such Member.

**Certificate.** The Certificate of Formation of the Company, as amended from time to time.

**Code.** The Internal Revenue Code of 1986, as amended from time to time, or any replacement or successor law.

**Company.** The Delaware limited liability company currently known as Bridgeway Advocacy, LLC.

**Confidential Information.** The meaning ascribed to such term in Section 16.1(b) hereof.

**Distribution.** Each distribution made by the Company to a Member with respect to such Person's Membership Interests, whether in cash, property or securities of the Company and whether by liquidating distribution, dividend or otherwise; provided that Distributions shall not include any recapitalization or exchange of securities of the Company (whether resulting from the conversion of the Company from a limited liability company to a corporation or otherwise), any subdivision or any combination of any outstanding Membership Interests.

**Family Members.** A Member's spouse, adopted or biological child, father or mother.

**GAAP.** Generally accepted accounting principles.

**Gift Trust.** The meaning ascribed to such term in Section 12.2 hereof.

**Gift Trust Transferor.** The meaning ascribed to such term in Section 12.2 hereof.

**Manager or Managers.** The Managers of the Company (each, a Manager) shall be Lisa Colangelo, Charles Merin, and John Tanner, and any successor thereto elected in accordance with Section 10.2.

**Marginal Rate.** A rate equal to the highest effective marginal combined federal, state and local income tax rate for an Allocation Period applicable to corporate or individual taxpayers that may potentially apply to any Member for such Allocation Period, taking into account the character of the relevant tax items (e.g., ordinary or capital), the deductibility of state and local income taxes for federal income tax purposes (but only to the extent such taxes are deductible under the Code) and including deductions pursuant to Section 199A of the Code, as reasonably determined by the Managers. For the avoidance of doubt, the Company shall use the same Marginal Rate for determining the Tax Liability for each Member with respect to any particular item of income or gain, regardless of whether the Member is a corporation, individual, partnership, trust, estate or other juridical entity.

**Member Loans.** Any loans made pursuant to Section 6.2 hereof by any Member to the Company.

**Member Nonrecourse Debt Minimum Gain.** An amount, with respect to each partner nonrecourse debt (as defined in Treasury Regulation Section 1.704-2(b)(4)), equal to the Minimum Gain that would result if such partner nonrecourse debt were treated as a nonrecourse liability (as defined in Treasury Regulation Section 1.704-2(b)(3)), determined in accordance with Treasury Regulation Section 1.704-2(i)(3).

**Member Trust.** The meaning ascribed to such term in Section 12.2 hereof.

**Member Trustee.** The meaning ascribed to such term in Section 12.2 hereof.

**Membership Interests.** A Member's share of the Profits and Losses of, and the right to receive Distributions (including a return of capital) from, the Company.

**Members.** Each of the Persons designated a "Member" on Exhibit A attached hereto and made a part hereof and each Person who may become a substituted or additional Member

pursuant to the provisions hereof.

**Minimum Gain.** The meaning ascribed to partnership minimum gain in Treasury Regulation Sections 1.704-2(b)(2) and 1.704-2(d); generally, the amount by which the nonrecourse liabilities secured by any assets of the Company exceed the adjusted tax basis of such assets as of the date of determination. A Member's share of Minimum Gain (and any net decrease thereof) at any time shall be determined in accordance with Treasury Regulation Section 1.704-2(g).

**Participating Percentage.** For each Member, the percentage set forth after the Member's name on Exhibit A, as amended from time to time, and as to an assignee who is not a Member, the Participating Percentage of the Member whose Membership Interest has been acquired by such assignee, to the extent the assignee has succeeded to that Member's Membership Interest.

**Partnership Representative.** The meaning ascribed to such term in Section 10.8(a) hereof.

**Permitted Transfers.** The meaning ascribed to such term in Section 12.2 hereof.

**Person.** A natural person, corporation, limited liability company, trust, partnership, limited partnership, legal representative, unincorporated association or other entity.

**Profits or Losses.** The net income or loss of the Company for federal income tax purposes as finally determined by the Company's accountants for each Allocation Period of the Company (or other period for which Profit or Loss must be computed) in accordance with Section 703(a) of the Code (all items of income, gain, loss or deduction required to be stated separately pursuant to Section 703(a)(1) of the Code being included in taxable income or loss for this purpose), as adjusted in accordance with the rules contained in Treasury Regulations issued under Section 704(b) of the Code (e.g., (i) increasing taxable income by any income of the Company that is exempt from U.S. federal income tax and (ii) depreciation, amortization, gain or loss with respect to assets of the Company adjusted pursuant to Regulation Section 1.704-1(b)(2)(iv)(f) shall be computed in accordance with Regulation Section 1.704-1(b)(2)(iv)(g)).

**Regulatory Allocations.** The meaning ascribed to such term in Section 7.3(h) hereof.

**Tax Liability.** For each Member, the amount for any Allocation Period equal to the product of (i) the Taxable income of the Company, if any, allocated to such Member under this Agreement for such Allocation Period (including amounts deemed to be taxable income under Section 704(c) of the Code) reduced by the Taxable loss of the Company, if any, allocated to such Member under this Agreement for all prior years and not previously taken into account for purposes of Section 8.2, multiplied by (ii) the Marginal Rate for such Allocation Period. In no event shall the Tax Liability of a Member for any Allocation Period be deemed to be less than zero. Notwithstanding anything herein to the contrary, for purposes of calculating the Taxable income of the Company, if any, allocable to a Member, the Taxable income of the Company allocable to a Member shall be calculated taking into account any limitation on the deductibility of interest expense under Section 163(j) of the Code.

**1.2 Interpretation.** The definitions in Section 1.1 shall apply equally to both the singular and plural forms of the terms defined. Wherever the context may require, any pronoun

used in this Agreement shall include the corresponding masculine, feminine and neuter forms. For all purposes of this Agreement, the term “control” and variations thereof shall mean the direct or indirect possession of the power to direct or cause the direction of the management and policies of the specified entity, through the ownership of equity interests therein, by contract or otherwise. As used in this Agreement, the words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” As used in this Agreement, the terms “herein,” “hereof” and “hereunder” shall refer to this Agreement in its entirety. Any references in this Agreement to “Sections” or “Articles” shall, unless otherwise specified, refer to Sections or Articles, respectively, in this Agreement.

## **ARTICLE 2**

### **FORMATION OF THE COMPANY**

**2.1 Formation.** The parties have formed a limited liability company under and pursuant to the provisions of the Act; and the rights and obligations of the Members shall be as provided therein except as otherwise expressly provided in this Agreement. The Members agree to execute such certificates or documents and to do such filings and recordings and all other acts, including the filing or recording of the Certificate, and any assumed name filings in the appropriate offices in the State of Delaware and any other applicable jurisdictions as may be required to comply with applicable law.

**2.2 Entire Agreement.** Each and every other agreement or understanding, oral or written, relating in any way to the formation or operation of the Company is hereby superseded in its entirety. From and after the execution of this Agreement, the same shall constitute the only Operating Agreement of the Company except as the same may hereafter be amended pursuant to the provisions hereof. This Agreement represents the entire agreement and understanding of the parties hereto concerning the Company and their relationship as Members, and the Prior Agreement and all other prior or concurrent agreements, understandings, representations and warranties with regard to the subject matter hereof are and have been merged herein.

## **ARTICLE 3**

### **NAME AND PRINCIPAL OFFICE**

**3.1 Name.** The business of the Company shall be conducted under the name of “Bridgeway Advocacy, LLC,” or such other name as the Managers may designate.

**3.2 Principal Office and Place of Business, Registered Office and Registered Agent.** The principal office shall be located at The Yard, Second Floor, 700 Pennsylvania Ave SE, Washington D.C. 20003. The registered agent and registered office of the Company in Delaware is Cogency Global, 850 New Burton Rd., Ste 201, Dover, DE, 19904. The Managers may from time to time designate another registered agent or another location for the principal office, registered office or principal place of business of the Company upon notice to the Members.

## **ARTICLE 4**

### **PURPOSE**

The purpose of the Company is to conduct all other lawful businesses for which a limited liability company may be formed under Delaware law. Except as specifically limited or prohibited by this Agreement, the Company is empowered to perform such actions and engage in such activities consistent with, useful or necessary to carry out the purpose of the Company.

## **ARTICLE 5**

### **TERM AND FISCAL YEAR**

**5.1 Term.** The term of the Company shall commence as of the date hereof and shall continue unless terminated pursuant to the provisions of this Agreement or as otherwise provided by law.

**5.2 Fiscal Year.** The fiscal year of the Company shall be the calendar year.

## **ARTICLE 6**

### **CAPITAL CONTRIBUTIONS, LOANS AND CAPITAL ACCOUNTS**

**6.1 Initial Capital.** Each Member has contributed cash to the capital of the Company in the amount set forth opposite such Member's name on Exhibit A attached hereto and made a part hereof. Except as otherwise specifically provided herein, no Member shall be required to make any additional contributions to the capital of the Company.

**6.2 Member Loans.** If at any time in the opinion of the Managers, the Company's revenues and funds are not sufficient to satisfy the obligations and liabilities of the Company, the Managers may arrange for the Company to borrow such required funds from an outside source at the then-prevailing interest rate and on such terms and conditions as the Managers deem advisable. To the extent that a Member repays, on the Company's behalf, any loan of the Company, the amount repaid by such Member shall be deemed a Member Loan for the purposes hereof, to be repaid to the Member by the Company as provided herein, unless the Company and such Member agree otherwise. In addition, the Members may, but other than any obligations to guarantee the loans of the Company in accordance herewith the Members shall not be obligated to, make loans to the Company, which loans shall be upon terms and conditions agreed to by the Company and the Member making the loan and evidenced by a writing in form and substance satisfactory to the Company and such Member.

**6.3 Return of Capital Contributions.** Except as specifically provided in this Agreement, a Member shall not be entitled to the return of the Member's Capital Contribution.

**6.4 Capital Account.**

(a) A separate Capital Account shall be established and maintained for each Member in accordance with the Code and the regulations promulgated thereunder, including, but not limited to, the rules regarding the maintenance of partners' Capital Accounts set forth in Treasury Regulation Section 1.704-1.

(b) Subject to Section 6.4(a), there shall be credited to each Member's Capital Account (i) the amount of money and the fair market value of any property (net of related liabilities) contributed by the Member to the Company, and (ii) the Member's share of

Profit (or items thereof) of the Company.

(c) Subject to Section 6.4(a), there shall be charged against each Member's Capital Account (i) the amount of money and the fair market value of any property (net of related liabilities) distributed to the Member by the Company (other than in payment of principal or interest on any Member Loans by such Member or any other indebtedness of the Company to such Member) and (ii) the Member's share of Loss (or items thereof) of the Company.

(d) If property is contributed to the capital of the Company or upon the occurrence of any event specified in Treasury Regulation Section 1.704-1(b)(2)(iv)(f), the Managers, in their sole discretion, may conduct a revaluation of the property of the Company and, in the event there is a revaluation of any property of the Company such that the book value of such property differs from its adjusted tax basis, the Members' Capital Accounts shall be appropriately adjusted for income, gain, loss and deduction as required by Treasury Regulation Section 1.704-1(b)(2)(iv)(g). Any such adjustment(s) to Capital Accounts may be based on the value of Company property as of the date of the adjustment and may reflect the manner in which unrealized Profit or Loss inherent in such property (that has not been reflected in Capital Accounts previously) would be allocated among the Members as if there were a taxable disposition of such property for such fair market value on that date. After any such revaluation, the Members' Capital Accounts may be subsequently adjusted for book depreciation, depletion, amortization, and gain or loss with respect to Company property.

(e) If any Membership Interests are transferred pursuant to the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent the Capital Account is attributable to the transferred Membership Interests.

(f) To the extent a Member's Capital Account is greater than zero, such excess is hereinafter referred to as a "positive balance." To the extent that a Member's Capital Account is less than zero, said amount is hereinafter referred to as a "deficit balance."

**6.5 Interest on Capital Contributions.** Except as specifically provided in this Agreement, the Company shall not pay interest on Capital Contributions or undistributed profits.

## **ARTICLE 7**

### **ALLOCATION OF PROFITS AND LOSSES**

#### **7.1 General Allocation of Profits and Losses.**

(a) Allocations. Except as otherwise provided in Sections 7.2 and 7.3, for each Allocation Period of the Company, after adjusting each Member's Capital Account for all Capital Contributions and Distributions during such Allocation Period, the Company's Profits and Losses shall be allocated to the Members' Capital Accounts in a manner such that, as of the end of such Allocation Period, the Capital Account of each Member shall be equal to (i) the amount which would be distributed to such Member, determined as if the Company were to sell all of its assets for the book value thereof, all

Company liabilities were satisfied (limited with respect to each nonrecourse liability to the book value of the assets securing such liability) and the net proceeds thereof were distributed to the Members pursuant to Section 14.4(c) hereof, minus (ii) such Member's share of Minimum Gain and Member Nonrecourse Debt Minimum Gain.

(b) Stop Loss. Notwithstanding Section 7.1(a), Losses shall not be allocated to a Member if such allocation would cause such Member to have an Adjusted Capital Account Deficit at the end of any Allocation Period (or would increase the amount of any such Adjusted Capital Account Deficit). Any such Losses not allocated to a Member due to the foregoing limitation shall be specially allocated to the Members with positive Capital Account balances in proportion to such Capital Account balances until all such Capital Accounts have been reduced to zero and any remainder shall be allocated to the Members, pro rata in accordance with their Participating Percentages. To the extent any Loss is allocated in accordance with this Section 7.1(b), then Profits shall thereafter be allocated in reverse order and in proportion to the Loss allocated under this Section 7.1(b) until all Loss allocated under this Section 7.1(b) has been reversed.

**7.2 Allocations with Respect to Transferred Interests.** Upon the issuance or transfer (pursuant to the terms of this Agreement) of a Membership Interest during any Allocation Period, the Company will allocate items of income, gain, loss, deduction, credit and all other items among the Members in accordance with Code Section 706, using any method or convention permitted by law and selected by the Managers.

**7.3 Regulatory Allocations.**

(a) Minimum Gain Chargeback. Except as set forth in Treasury Regulation Section 1.704-2(f)(2), (3), and (4), notwithstanding any other provision of this Agreement, if there is a net decrease in Minimum Gain during any Allocation Period, each Member shall be allocated, before any other allocation of Company items for such Allocation Period, items of gross income and gain for such Allocation Period (and, if necessary, for subsequent Allocation Periods) in proportion to, and to the extent of, the amount of such Member's share of the net decrease in Minimum Gain during such year. Allocations of Company income and gain pursuant to this Section 7.3(a) shall be made in proportion to the respective amounts required to be allocated to each Member in accordance with Treasury Regulation Sections 1.704-2(f) and 1.704-2(j)(2). It is the intent of the parties hereto that any allocation pursuant to this Section 7.3(a) shall constitute a "minimum gain chargeback" under Treasury Regulation Section 1.704-2(f) and shall be interpreted consistently therewith.

(b) Member Nonrecourse Debt Minimum Gain Chargeback. Except as set forth in Treasury Regulation Section 1.703-2(i)(4), notwithstanding any other provision of this Agreement, if, during any Allocation Period, there is a net decrease for an Allocation Period in Member Nonrecourse Debt Minimum Gain attributable to a Member, each Member with a share of the Member Nonrecourse Debt Minimum Gain attributable to partner nonrecourse debt (as defined in Treasury Regulation Section 1.704-2(b)(4)), computed in accordance with Treasury Regulation Section 1.704-2(i)(5), shall be allocated items of gross income and gain for such Allocation Period (and, if necessary, subsequent Allocation Periods) in an amount equal to that Member's share of



the net decrease in Member Nonrecourse Debt Minimum Gain, computed in accordance with Treasury Regulation Section 1.704-2(i)(4). Allocations of Company income and gain pursuant to this Section 7.3(b) shall be made in proportion to the respective amounts required to be allocated to each Member in accordance with Treasury Regulation Sections 1.704-2(i)(4) and 1.704-2(j)(2). It is the intent of the parties hereto that any allocation pursuant to this Section 7.3(b) shall constitute a “minimum gain chargeback” under Treasury Regulation Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

(c) Qualified Income Offset. Notwithstanding any other provision of this Agreement, if a Member unexpectedly receives an adjustment, allocation or distribution described in Treasury Regulation Section 1.704-1(b)(2)(ii)(d)(4),(5) or (6) that causes or increases an Adjusted Capital Account Deficit with respect to such Member, items of gross income and gain of the Company shall be specially allocated to such Member in an amount and manner sufficient to eliminate such Adjusted Capital Account Deficit balance as quickly as possible; provided, that an allocation pursuant to this Section 7.3(c) shall be made only if and to the extent that such Member would have an Adjusted Capital Account Deficit after all other allocations provided for in this Section 7 have been tentatively made as if this Section 7.3(c) were not in this Agreement. This Section 7.3(c) is intended to comply with, and shall be interpreted consistently with, the “qualified income offset” provisions of the Treasury Regulations promulgated under Section 704(b) of the Code.

(d) Gross Income Allocation. If at the end of any Allocation Period, a Member has an Adjusted Capital Account Deficit, such Member shall be specially allocated items of income or gain of the Company in an amount and manner sufficient to eliminate such Adjusted Capital Account Deficit as quickly as possible; provided, that an allocation pursuant to this Section 7.3(d) shall be made only if and to the extent that such Member would have an Adjusted Capital Account Deficit after all other allocations provided for in this Section 7 have been tentatively made as if this Section 7.3(d) were not in this Agreement.

(e) Nonrecourse Deductions. Notwithstanding the provisions of Section 7.1, any deductions attributable to partnership nonrecourse liabilities (as determined pursuant to Treasury Regulation Section 1.704-2(c)) of the Company for any Allocation Period shall be allocated among the Members in the same proportion as Profits or Losses (as may apply) for such year are allocated.

(f) Member Nonrecourse Deductions. Notwithstanding the provisions of Section 7.1, any item of Loss, deduction or expenditures of the Company described in Section 705(a)(2)(B) of the Code that is attributable to a partner nonrecourse debt (as defined in Treasury Regulation Section 1.704-2(b)(4)) of a Member shall be allocated to those Members that bear the economic risk of loss for such partner nonrecourse debt, and among such Members in accordance with the ratios in which they share such economic risk, determined in accordance with Treasury Regulation Section 1.704-2(i).

(g) Interpretation. The foregoing provisions of this Section 7.3 are intended to comply with Treasury Regulation Sections 1.704-1(b) and 1.704-2 and shall be interpreted consistently with this intention. Any terms used in such provisions that are

not specifically defined in this Agreement shall have the meaning, if any, given such terms in the Regulations cited above.

(h) Curative Allocations. Notwithstanding the provisions of Section 7.1, if any allocation of gain, income, loss, expense or any other item is made pursuant to Section 7.3(a), 7.3(b), 7.3(c), 7.3(d), 7.3(e), or 7.3(f) (the “**Regulatory Allocations**”) with respect to one or more Members, then the Regulatory Allocations shall be taken into account in allocating Profits, Losses and other items of income, gain, loss and deduction among the Members such that, to the extent possible (taking into account the provisions of the applicable Treasury Regulations), the net amount of such allocations of Profits, Losses and other items and the Regulatory Allocations to each Member shall be equal to the net amount that would have been allocated to each Member if the Regulatory Allocations had not been made.

#### **7.4 Tax Allocations.**

(a) General. Except as provided in Section 7.4(b) and (c), the income, gains, losses, deductions and credits of the Company will be allocated for federal, state and local income Tax purposes among the Members in accordance with the allocation of such income, gains, losses, deductions and credits among the Members for computing their Capital Accounts, except that if any such allocation is not permitted by the Code or other applicable law, the Company’s subsequent income, gains, losses, deductions and credits will be allocated among the Members so as to reflect as nearly as possible the allocation set forth herein in computing their Capital Accounts.

(b) Section 704(c). If any property contributed to the Company has a fair market value (as set forth herein or as otherwise agreed by the contributing Member and the Manager) that differs from its adjusted basis for federal income tax purposes at the time of such contribution, or if there is a revaluation of any Company property such that the book value of such property differs from its adjusted basis for federal income tax purposes, items of income, gain, loss, and deduction with respect to any such property shall be allocated among the Members so as to take account of such difference, in the manner intended by Section 704(c) of the Code and the Treasury Regulations from time to time promulgated thereunder, using such method permitted by such Treasury Regulations as the Managers may determine.

(c) Tax Credits. Unless otherwise required by the Code, any tax credits of the Company shall be allocated among the Members in accordance with their Participating Percentages. Any recapture of tax credits shall be allocated among the Members in the same ratio as the applicable tax credits were allocated to the Members.

(d) Tax Purposes. Allocations pursuant to this Section 7.4 are solely for purposes of federal, state and local Taxes and shall not affect, or in any way be taken into account in computing, any Member’s Capital Account or share of Profits, Losses, Distributions or other Company items pursuant to any provision of this Agreement.

**7.5 Allocation of Excess Nonrecourse Liabilities.** Unless otherwise determined by the Managers, solely for the purpose of allocating excess nonrecourse liabilities of the Company

among the Members in connection with the determination of the Members' adjusted tax bases for their interests in the Company, in accordance with Section 752 of the Code and the Treasury Regulations from time to time promulgated thereunder, the Members agree that each Member's interest in Profits of the Company equals such Member's Participating Percentage.

## **ARTICLE 8**

### **DISTRIBUTIONS**

**8.1 Distribution Priority.** All Distributions from the Company, shall be applied and distributed in the following order of priority:

(a) First, to the Members in proportion to their aggregate Capital Accounts set forth on Exhibit A attached hereto, until the aggregate amount of Distributions made pursuant to this Section 8.1(a) equals the aggregate Capital Accounts set forth on Exhibit A.

(b) Second, any remaining Distributions shall be made among the Members in proportion to such Members' Participating Percentages.

**8.2 Tax Distributions.** The Company, as determined by the Managers in their sole discretion, may make Distributions to the Members, in proportion to and to the extent of the Tax Liability of each Member for the most recently ended calendar year (provided, however, that the Company may make Distributions pursuant to this Section 8.2 based upon estimates of the Members' Tax Liabilities for the then current year). Notwithstanding anything herein to the contrary, any tax Distribution to a Member pursuant to this Section 8.2 shall be treated as an advance of Distributions under Section 8.1(b).

**8.3 Distribution Limitation.** Distributions (including, tax Distributions under Section 8.2) shall be made to the Members in such amounts and at such intervals as the Managers determine. No Distribution shall be made (other than tax Distributions set forth in Section 8.2) at any time when there is a Member Loan outstanding. The foregoing priorities of Distributions are for the benefit of the Members only and not for the benefit of any third party or creditor of the Company or of any Member, and neither the Company, the Managers nor any Member shall be liable or responsible to any third party or creditor of the Company or of any Member for any deviation from such priorities.

**8.4 Withholding.** If the Company is required to withhold any portion of any amounts distributed, allocated or otherwise attributable to a Member by applicable U.S. federal, state, local or foreign tax laws (including, for the avoidance of doubt, Section 1446(f) of the Code), the Company may withhold such amounts from the Members and make such payments to taxing authorities as are necessary to ensure compliance with any tax laws. Any funds withheld by reason of this Section 8.4 shall nonetheless be deemed distributed to such Member for purposes of this Agreement and shall be treated as distributions actually paid to such Member. If the Company does not withhold from any given distribution to a Member any amounts it was required or permitted to withhold pursuant to applicable tax laws, the Company may, at its option, (a) require the Member to which the withholding was credited to reimburse the Company for withholding required or permitted by such laws, including any interest and penalties thereon, or (b) reduce any subsequent distributions to such Member by such withholding, plus any

interest and penalties. The obligation of a Member to reimburse the Company for such amounts will survive any transfer or liquidation of its Membership Interests and the dissolution of the Company.

## **ARTICLE 9**

### **BOOKS OF ACCOUNT, RECORDS AND REPORTS**

#### **9.1 Books of Account and Records.**

(a) The Managers shall maintain at the principal office of the Company all of the following:

- (i) a current list, and all past lists, of the full name and last known mailing address of each Member and the Managers;
- (ii) a copy of the Certificate and all amendments thereto, together with executed copies of any power of attorney pursuant to which the Certificate or any amendments were executed;
- (iii) copies of the Company's federal, state and local income tax returns and financial statements, if any, for the three most recent years;
- (iv) copies of this Agreement and any amendments hereto;
- (v) copies of the financial statements, if any, of the Company for the three most recent years; and
- (vi) copies of any agreements by Members to make capital contributions to the Company, if separate from this Agreement and any amendments hereto.

The Managers shall maintain at the principal office of the Company, proper and complete records and books of account for the Company. Any of the foregoing may be inspected and copied by any Member or its duly authorized representatives, at the expense of such Member, during ordinary business hours. The Company shall retain a certified public accountant, to be selected by the Managers, to prepare the tax returns of the Company.

(b) If a Member reasonably requests the Company or the Managers to assemble or compile information, the Managers shall have the authority to pass on all costs of labor, duplicating or other related charges so incurred to the Member making the request.

**9.2 Reports to Members.** The Managers shall furnish to each of the Members as soon as practicable after the end of each calendar year the following:

- (a) A copy of the federal income tax return filed by the Company for the calendar year, except for Schedules K-1 applicable to other Members;
- (b) All information relative to the Company necessary for the preparation of the Members' federal and state income tax returns;

(c) A balance sheet as of the close of such calendar year and statements of Profits or Losses which shall be prepared in accordance with GAAP or tax accounting principles, with or without audit or review by an independent certified public accountant, in each case in the discretion of the Manager; and

(d) Copies of any additional reports in existence regarding the Company as a Member may reasonably request.

## **ARTICLE 10**

### **MANAGEMENT OF THE COMPANY**

**10.1 Management of Company Affairs.** Except as otherwise specifically provided in this Agreement, the management of the Company is vested in the Managers. The Managers shall be responsible for the operations of the Company and the establishment of policy and operating procedures respecting the business affairs of the Company. The affirmative vote of a majority of the Managers shall be the act of the Managers. Each Manager shall receive one vote.

**10.2 Appointment and Replacement of Managers.** The Managers of the Company shall consist of Lisa Colangelo, Charles Merin and John Tanner; provided, that if any one of these individuals shall for any reason no longer be a Manager of the Company, the selection of his successor will be appointed by the Member represented by such departing Manager.

**10.3 Powers and Authority of the Managers.** Except as otherwise specifically provided in this Agreement (including Sections 4.1 and 10.4), the Managers are hereby granted the right, power and authority to do on behalf of the Company all things which, in his best judgment, are necessary, proper or desirable to carry out their duties and responsibilities, including, but not limited to, the right, power and authority to:

- (a) Incur all expenditures and pay all obligations of the Company;
- (b) Execute any and all documents or instruments of any kind which the Managers may deem necessary or appropriate for carrying out the purposes of the Company;
- (c) Purchase or lease equipment for Company purposes;
- (d) Subject to Section 6.2, cause the Company to borrow money from individuals, banks and other lending institutions for any Company purpose, and pledge any or all of the assets of the Company and the income therefrom to secure the repayment of such loans; and obtain replacements of any such loan, in whole or in part, refinance, recast, modify, extend or consolidate any loan;
- (e) Procure and maintain, at the expense of the Company, with responsible companies, such insurance in such amounts and covering such risks as are appropriate in the judgment of the Managers;
- (f) Receive and disburse any cash or other proceeds in accordance with Article 8;

- (g) Supervise the preparation and filing of all Company tax returns;
- (h) Engage and terminate any attorneys, accountants, brokers, or leasing or sales agents, and determine the terms of such engagements;
- (i) Perform any and all other acts or activities customary or incident to the purpose of the Company as described in Section 4.1;
- (j) Sale, exchange, transfer, pledge, mortgage, hypothecate or otherwise dispose of any properties of the Company, real and personal, in the ordinary course of business, including to secure any loans used for operations of the Company;
- (k) Initiate or agree to settle any material litigation to which the Company is a party;
- (l) Confess any judgment against the Company; and
- (m) Consent to any receiver of the Company assets.

**10.4 Major Decisions.** Notwithstanding anything in Sections 10.1 and 10.3 to the contrary, the Managers shall not, without the prior written approval of Members holding at least sixty-six percent (66%) of all the Participating Percentages, undertake any of the following:

- (a) Convert the Company into a corporation taxable under Subchapter C of the Code;
- (b) Redeem all or any portion of any Member's Membership Interests in the Company other than as specifically contemplated hereunder;
- (c) Sell, exchange, transfer or otherwise dispose of the properties of the Company, real or personal, constituting all or substantially all the assets of the Company;
- (d) The creation of any additional class of equity interest of the Company; or
- (e) The issuance, sale or assignment of any Membership Interests of the Company other than any Membership Interests issued as of the date of this Agreement.

**10.5 Officers.** The Managers may, from time to time, appoint one or more persons to serve as officers of the Company. One person may hold more than one office and the officers need not be Members or Managers. The officers shall be elected annually by the Managers, and each officer shall hold office until his or her successor has been duly elected or qualified. Any officer may resign at any time upon written notice to the Managers. Any vacancy in any office can be filled for the unexpired term by the Managers.

**10.6 Engagements by the Company.** The Managers may engage, on behalf and at the expense of the Company, such persons, firms or corporations (including Affiliates of any Member or the Managers) as the Managers in their reasonable judgment shall deem advisable for the conduct and operation of the business of the Company, on such terms and for such compensation or costs as the Managers, in their reasonable judgment, shall determine.

**10.7 Duties; Liability of the Managers.** Unless a separate written agreement

between a Manager and the Company provides otherwise, each Manager's fiduciary duties to the Company and to each other are limited to those expressly set forth in this Agreement. The parties intend this provision to fall within Section 18-1101 of the Act and it must be construed as broadly as legally permitted under Section 18-1101 of the Act. The Managers and their Affiliates, agents and employees shall not be liable, responsible or accountable in damages or otherwise to the Company or any of the Members or their successors or assigns for any acts performed or committed within the scope of their authority as Managers, or otherwise conferred on the Managers and such Affiliates, agents and employees by this Agreement and the Managers have no liability for any breach of contract or breach of any duties (including fiduciary duties) except for any act or omission that constitutes a bad faith violation of the implied contractual covenant of good faith and fair dealing.

#### **10.8 Partnership Representative.**

(a) Appointment. The Members and the Managers hereby appoint the Company as the "partnership representative" (the "**Partnership Representative**") as defined in Section 6223(a) of the Code, and in any similar capacity under state or local law. The Members and the Managers hereby appoint Janisha Richardson as the "designated individual" (the "**Designated Individual**") as provided in Treasury Regulation Section 301.6223-1(b)(3)(ii). The Designated Individual shall take such actions only as directed by the Partnership Representative.

(b) Resignation or Removal. The Partnership Representative or Designated Individual may resign at any time. The Partnership Representative or Designated Individual may be removed at any time by the Managers (or if a Manager is also the Partnership Representative or Designated Individual, by a vote of the Members holding at least sixty-six percent (66%) of all the Participating Percentages). In the event of the resignation or removal of the Partnership Representative or Designated Individual, a replacement Partnership Representative or replacement Designated Individual shall be selected by the Managers (or if a Manager was also the former Partnership Representative or Designated Individual, the Managers (other than the Manager who was also the former Partnership Representative)). If the resignation or removal of the Partnership Representative or Designated Individual occurs before the effectiveness of the resignation or removal under applicable Treasury Regulations or other administrative guidance, the resignation or removal of the Partnership Representative or Designated Individual shall be effective upon the earliest date provided for in such Treasury Regulations or administrative guidance, and the Partnership Representative or Designated Individual that has resigned or been removed shall not take any actions in its capacity as Partnership Representative or Designated Individual except as directed by the Managers.

(c) Tax Examinations and Audits. The Partnership Representative is authorized and required to represent the Company (at the Company's expense, subject to reimbursement) in connection with all audits, inquiries, examinations, demands, or other proceedings in respect of any tax returns or taxes of the Company by any federal, state, local or foreign taxing authority (each a "**Tax Contest**"). The Partnership Representative shall control all proceedings and make all decisions in connection with any Tax Contest, including all decisions to grant or deny any waiver or extension of the applicable statute

of limitations or to settle or compromise such Tax Contest. Each Member agrees that such Member will not independently act with respect to any Tax Contest, unless previously authorized to do so in writing by the Partnership Representative (which authorization may be withheld by the Partnership Representative in its sole and absolute discretion). The Partnership Representative shall have sole authority to act on behalf of the Company in any such Tax Contest, and shall have sole discretion to determine whether the Company (either on its own behalf or on behalf of the Members) will contest or continue to contest any tax deficiencies assessed or proposed to be assessed by any taxing authority. Each of the Members consents to and agrees to become bound by all actions of the Partnership Representative, including any contest, settlement or other action or position which the Partnership Representative may deem proper under the circumstances.

(d) Audit Tax Elections. The Partnership Representative may, but shall not be obligated to, cause the Company to make any available elections under the provisions of the Code related to any Tax Contest, as such provisions may be amended from time to time. The Partnership Representative may set deadlines for the Members to comply with one or more procedures intended to reduce the tax imposed on the Members, and each Member who does not comply timely and fully shall be responsible for the consequences of such failure. The Members agree that, upon the Partnership Representative's request, they shall provide it with any information regarding their individual tax returns and liabilities that may be relevant under Code Section 6225(c), or other state or local rule, and file amended tax returns as provided in Code Section 6225(c)(2), or applicable state or local laws, with timely payment of any tax due.

(e) Tax Returns and Tax Deficiencies. The parties agree that, if the Company pays any deficiency for taxes, interest, and penalties (including those under Code Section 6225) as a result of a Tax Contest, the Partnership Representative shall seek payment from the Members (and former Members) for the amount of such deficiency for any taxes, interest, and penalties, and each such Member (or former Member) agrees to pay the amount of such deficiency for any taxes, interest, and penalties attributable to that Member (or former Member) to the Company promptly upon the request of the Company if and to the extent that the Partnership Representative, in the Partnership Representative's sole and absolute discretion, does not decide to merely debit the Member's Capital Account or reduce any obligation the Company has to the Member (or former Member), which debit or reduction the Partnership Representative shall communicate in writing to the Member (or former Member). Any such payment made by a Member (or former Member) shall not be treated as a Capital Contribution.

(f) Survival. Notwithstanding any other provision of this Agreement to the contrary, each Member agrees that its obligations to comply with this Section 10.8 will survive any transfer or liquidation of its Membership Interests and the dissolution of the Company. Accordingly, each person that ceases to be a Member will, notwithstanding such divestiture, reimburse and indemnify the Company against any liability that would be attributable to such person under Section 10.8(e).

(g) Liability of Partnership Representative. The Members specifically acknowledge that the Partnership Representative shall not be liable, responsible or



accountable in damages or otherwise to the Company or any Member with respect to any action taken by it in its capacity as a Partnership Representative, except for gross negligence or willful misconduct. The Company shall reimburse the Partnership Representative and Designated Individual for any and all reasonable out of pocket costs and expenses (including reasonable attorneys' and other professional fees) incurred by him in his capacity as the Partnership Representative and the Designated Individual, and the Company shall hold the Partnership Representative and the Designated Individual harmless from and against any loss, liability, damage, cost or expense (including reasonable attorneys' fees) sustained or incurred as a result of any act or decision concerning Company tax matters and within the scope of such responsibilities as Partnership Representative or Designated Individual.

**10.9 Tax Status and Tax Elections.**

(a) Until otherwise determined by the Managers, the Company will be treated as a partnership for federal income tax purposes.

(b) Notwithstanding anything to the contrary set forth in this Agreement, the Managers may make any tax elections or decisions for the Company allowed under the Code or the tax laws of any state, local or foreign jurisdiction having taxing authority over the Company.

(c) Each Member will upon request from the Managers supply any information necessary to give proper effect to such election.

**10.10 Indemnification of Managers.** The Company shall indemnify, defend, and hold the Managers, their Affiliates, employees and agents, or their respective successors, executors, administrators or personal representatives harmless from and against any loss, liability, damage, cost, or expense (including reasonable attorneys' fees) sustained or incurred as a result of any act or omission concerning the business or activities of the Company; provided that the Managers, their Affiliates, employees, or agents are not guilty of gross negligence or willful misconduct and were acting in good faith within what they reasonably believed to be the scope of their authority for a purpose which they reasonably believed to be not opposed to the best interests of the Company.

**10.11 Authority Schedules.** The Managers may from time to time approve a schedule of the scope of authority ("**Authority Schedule**") of the individual Managers, and any officer if applicable, to transact business on behalf of the Company without the approval of a majority vote of the Managers.

**10.12 Committees.** The Managers, by resolution adopted by the affirmative vote of a majority of the Managers, may designate one or more committees (which may include a compensation committee). Each such committee shall fix its own rules governing the conduct of its activities and make such reports to the Managers of its activities as the Managers may request.

**10.13 Compensation of the Managers.** The Managers shall not be paid compensation for their service as a Manager.

**ARTICLE 11**

## **RIGHTS AND DUTIES OF MEMBERS**

**11.1 Admission of Members.** The Company shall issue Membership Interests. Membership Interests will be issued to all persons or entities that become Members, unless a new class of membership interests is created in accordance with the terms hereof. From time to time, Exhibit A attached hereto and made a part hereof shall be amended to include all persons admitted as Members of the Company. Each of the persons or entities listed on Exhibit A attached hereto and made a part hereof, as may be amended from time to time, is hereby admitted and recognized as a Member of the Company. No other person or entity shall be recognized or admitted as a Member of the Company.

**11.2 No Individual Authority.** Except as otherwise expressly provided in this Agreement or in the Act, no Member, acting alone, shall have any authority to act for, or to create, undertake or assume any liabilities, obligations or responsibilities on behalf of the Company or any other Member.

**11.3 Reimbursement for Costs and Expenses.** Subject to the approval of the Managers, a Member shall be entitled to reimbursement from the Company for any reasonable and necessary out-of-pocket costs and expenses incurred by such Member on behalf and for the benefit of the Company.

**11.4 No Other Compensation.** Except for any reimbursements pursuant to Section 11.3, no Member shall be entitled to receive any compensation from the Company or from any other Member for services performed in its capacity as a Member.

**11.5 Representations by Members.** Each Member represents and warrants to the other Members and to the Company that (a) all transactions contemplated by this Agreement to be performed by such Member have been duly authorized by all necessary action and do not require the consent or approval of any third party, (b) such Member has all necessary power and authority to execute and deliver this Agreement, (c) each Member, other than any Member Trust or Gift Trust, is a natural person, and (d) this Agreement is a valid and binding agreement on the part of such Member, enforceable in accordance with its terms.

**11.6 Indemnification by the Members.** Each Member hereby indemnifies the Company and each of its other Members and holds them each harmless from and against all liability, loss, cost, damage and expense (including attorneys' fees and costs incurred in the investigation, defense and settlement of the matter) which the Company or any of such other Members shall ever sustain, suffer or incur which relate or arise out of or in connection with a breach by the indemnifying Member of any representation, warranty or covenant made by the indemnifying Member in this Agreement or in any related agreement or instrument. If the Company is made a party to any litigation or otherwise incurs any loss or expense as a result of or in connection with any Member's personal obligations or liabilities unrelated to Company business, such Member shall indemnify and reimburse the Company for all such loss and expense incurred, including reasonable attorneys' fees. The liability of any Member pursuant to this Section 11.6 shall be enforceable against such Member personally.

**11.7 Indemnification by the Company.** The Company hereby indemnifies each of its Members and former Members for all costs, losses, liabilities and damages paid or incurred by

any of them in connection with the business of the Company, including any judgments, settlements, penalties, fines and expenses incurred in a proceeding to which any such Person is a party because the Person is or was a Member of the Company, officer or director to the fullest extent provided or allowed by the Act or any other applicable laws provided that such liability does not arise by reason of the willful misconduct or gross negligence of such Member or any matter described in Section 11.6 with respect to which the Member is obligated to indemnify the Company.

## **ARTICLE 12**

### **TRANSFER OF MEMBERSHIP INTERESTS**

**12.1 General Prohibition.** No Member may transfer, assign, pledge, encumber or otherwise dispose of any of his, her or its Membership Interests, except to the extent and in the manner hereinafter set forth. Any purported transfer in violation of any provision of this Agreement shall be null and void and of no force or effect whatsoever.

**12.2 Permitted Transfers.** Notwithstanding the prohibitions on transfer contained herein, a Member may, for estate planning purposes, transfer all or any portion of his, her or its Membership Interests (i) to the Company, (ii) to a trust for which such transferor (“**Member Trustee**”) is the trustee with sole and absolute control over the trust (“**Member Trust**”) and the beneficiaries of which are Family Members of the Member Trustee, or (iii) to a trust the beneficiaries of which are the transferor’s Family Members and the trustee of which shall be agreed upon by the Managers (“**Gift Trust**,” the transferor referred to herein as the “**Gift Trust Transferor**”) (collectively, “**Permitted Transfers**”).

**12.3 Transfers Upon Breach of Article 16 or Commission of Felony Against the Company.** If a Member breaches his, her or its obligations under Article 16 hereof or, in the case of a Member which is an individual person (or trust or other estate planning vehicle of such person), commits a felony against the Company, then the Company shall have the option in its sole discretion to purchase such Member’s Membership Interests for a purchase price equal to the balance of such Member’s Capital Account with the Company on the date such breach first occurred or on the date upon which the individual Member first committed the felony against the Company, whatever the case may be. Within ninety (90) days of the date upon which the Company becomes aware of a breach under Article 16, and at any time after the Company becomes aware of the commission of a felony by an individual Member, if the Managers choose to authorize the purchase of the subject Member’s Membership Interests, the Company shall give the Member written notice of its exercise of its option to purchase such Member’s Membership Interests and the Company shall purchase the Membership Interests of such Member within thirty (30) days after delivery of such notice. The purchase of such Membership Interests shall be conducted in accordance with Section 12.4 hereof.

**12.4 Closing of Sale.** The closing of the purchase of Membership Interests by the Company (the “**Closing**”) pursuant to this Article 12 shall take place at the offices of counsel for the Company or at such other place and at such time as the parties to the sale may mutually agree. At such Closing, the Member, or his or her legal representative, shall deliver to the Company, against receipt of the purchase price, if applicable, any such documents as the Company may require to effect a complete transfer and assignment of the Membership Interests

so acquired, free and clear of any claims, liens, pledges, community property rights or encumbrances whatsoever.

### **ARTICLE 13**

#### **ADMITTANCE**

The Managers may cause the Company to offer for sale and issuance additional Membership Interests in the Company to any of the Members or other Persons and to admit any such other Persons to the Company as Members for such price, and upon the terms and conditions, including the percentage interest in Profits, Losses and rights to Distributions and other items to be assigned to such interests and the designations, preferences, and relative participating, optional or other special rights, powers and duties associated with such interests, as the Managers shall determine to be reasonable or appropriate.

### **ARTICLE 14**

#### **DISSOLUTION AND LIQUIDATION OF COMPANY**

**14.1 Dissolution of the Company.** The Company shall be dissolved upon the happening of any of the following:

- (a) the determination of the Managers;
- (b) any event that makes it unlawful for the Company business to be continued; or
- (c) the sale, disposition, or abandonment of all or substantially all of the non-cash assets of the Company.

The death, retirement, resignation, bankruptcy, court declaration of incompetence, or dissolution of any one or more Members or the occurrence of any other event that terminates the continued membership of any one or more Members (except as provided in the immediately preceding sentence) shall not cause the dissolution of the Company.

**14.2 Winding Up of Affairs.** In the event of the dissolution and liquidation of the Company for any reason, the Managers shall commence to wind up the affairs of the Company and shall convert all of the Company's assets to cash or cash equivalents within such reasonable period of time as may be required to receive fair value therefor.

**14.3 Reserved.**

**14.4 Final Distribution of Company Property.** Upon termination of the Company, the Managers shall apply and distribute the remaining property of Company, together with the proceeds of any sales of same, as follows:

- (a) first, all Company debts and liabilities shall be paid and discharged, except any debts that are nonrecourse to the extent that the Managers elect not to pay such debts;
- (b) second, to establish any reserve which the Managers may deem reasonably necessary for any contingent or unforeseen liabilities or obligations of the Company.

Such funds may be placed in escrow by the Managers for the purposes of disbursing such funds in payment of any of the contingencies, liabilities, or obligations, and, at the expiration of such period as the Managers shall deem advisable, the balance then remaining shall be distributed pursuant to subsection (c) of this Section 14.4; and

(c) third, to apply and distribute the balance in the manner and priority set forth in Section 8.1.

**14.5 Certificate of Dissolution.** Upon completion of the liquidation of the Company and the distribution of all Company property, the Company shall terminate and the Managers shall have the authority to execute and record one or more Certificate of Dissolution of the Company as well as any and all other documents required or considered advisable by the Managers to effectuate and evidence the dissolution and termination of the Company.

**14.6 No Restoration of Deficit Capital Accounts.** Except as otherwise expressly provided herein, at no time shall a Member with a deficit balance in its Capital Account have any obligation to the Company or to another Member or to any other person to restore such deficit balance.

## **ARTICLE 15**

### **AMENDMENT OF OPERATING AGREEMENT**

**15.1 Amendment by Members.** This Agreement may be amended from time to time as determined by the Managers and with the written approval of Members having aggregate Participating Percentages of at least sixty-six percent (66%) of the aggregate Participating Percentages of all of the Members (or such greater number as required by applicable law); provided, however, that absent the approval of all Members no amendment shall:

- (a) increase the obligation of any Member to make contributions to the capital of the Company;
- (b) enlarge the liability of any Member as provided in this Agreement;
- (c) modify the order of Distributions, or the allocation of Profits and Losses among the Members;
- (d) convert the Company to a general partnership; or
- (e) amend this Article 15.

**15.2 Amendment of Certificate.** If this Agreement shall be amended pursuant to this Article 15, the Managers shall cause the Certificate to be amended, to the extent required by applicable law, to reflect such change. The Members shall promptly be notified of any amendments made under this Section 15.2.

## **ARTICLE 16**

### **CONFIDENTIALITY**

**16.1 Confidential Information.**

(a) Each Member agrees that he or she will not either during the term of this Agreement or at any time thereafter divulge, disclose or make accessible to any other person (except pursuant to the valid order of a court or governmental agency) any Confidential Information, as defined below.

(b) “**Confidential Information**” means any knowledge or information which is not generally known or available relating to the existing or contemplated products, production equipment, processes and methods, technology, research, engineering or developmental work, processes, formulae, inventions, marketing and strategic plans, business procedures, sales methods, customer lists, account lists, customer usages and requirements, price lists, inventory and materials and the suppliers and costs thereof, financial information and other confidential business information and data relating to the affairs of the Company or to its business. Confidential Information shall not however, include any information which (i) has been rightfully received from a third party without restriction and without breach of any agreement, (ii) is in the public domain, or (iii) as is required to be disclosed in connection with a Member’s tax filings.

## **ARTICLE 17**

### **NOTICES**

Any and all notices to be served hereunder shall be in writing and shall be personally delivered, sent by private courier, or sent by certified mail, postage prepaid, and, if intended for the Company or the Managers, to the Company or the Managers at the address of the principal place of business of the Company set forth herein, or, if intended for a Member, to such Member at the address set forth on Exhibit A attached hereto and made a part hereof, or provided with such Member’s signature on this Agreement, or to such other address as the Managers, for themselves or on behalf of the Company, or a Member may designate from time to time in a written notice served upon the Company and each other Member in accordance herewith. Any notice personally delivered shall be deemed delivered on the date actually delivered. Any notice sent by private courier shall be deemed delivered on the date of delivery or rejection of delivery, as shown on the receipt for delivery. Any notice sent by mail as provided above shall be deemed delivered on the second (2nd) Business Day next following the postmark date which it bears.

## **ARTICLE 18**

### **MISCELLANEOUS PROVISIONS**

**18.1 Severability.** If any provision of this Agreement or the application of such provision to any Person or circumstance shall be held invalid, the remainder of this Agreement, or the application of such provision to Persons or circumstances other than those as to which it is held invalid, shall not be affected. Each Member acknowledges and agrees that the restrictive covenants set forth in Article 16 of this Agreement, and the term and territorial limitations applicable thereto, are reasonable and acceptable. Notwithstanding the foregoing, if any court of competent jurisdiction shall at any time deem any term of any such restrictive covenants to be too long, or the territory as to which any such covenant applies too extensive, the other provisions of Article 16 shall nevertheless stand and the restrictive territory shall be deemed to compose the largest territory permissible by law under the circumstances.

**18.2 Parties Bound.** Any Person acquiring or claiming an interest in the Company, in any manner whatsoever, shall be subject to and bound by all terms, conditions and obligations of this Agreement to which his or its predecessor in interest was subject or bound, without regard to whether such Person has executed a counterpart hereof or any other document contemplated hereby. No Person, including the legal representative, heir or legatee of a deceased Member, shall have any rights or obligations greater than those set forth in this Agreement and no Person shall acquire an interest in the Company or become a Member thereof except as permitted by the terms of this Agreement. This Agreement shall be binding upon the parties hereto, their successors, heirs, devisees, assigns, legal representatives, executors and administrators.

**18.3 Applicable Law.** The Company and this Agreement shall be governed by the internal laws of the State of Delaware, without regard to its conflicts law provisions.

**18.4 Additional Documents and Acts.** In connection with this Agreement as well as all transactions contemplated by this Agreement, each party hereto shall execute and deliver such additional documents and instruments, and perform such additional acts, as any other party hereto may reasonably deem necessary or desirable from time to time to effectuate, perform and evidence all of the terms, provisions and conditions of this Agreement and all such transactions.

**18.5 Benefit.** Nothing contained herein, express or implied, is intended to confer upon any person other than the parties hereto and their respective successors and permitted assigns any rights or remedies under or by reason of this Agreement.

**18.6 Waiver.** The failure to insist upon strict enforcement of any of the provisions of this Agreement or of any agreement or instrument delivered pursuant hereto shall not be deemed or construed to be a waiver of any such provision, nor to in any way affect the validity of this Agreement or any agreement or instrument delivered pursuant hereto or any provision hereof or the right of any party hereto to thereafter enforce each and every provision of this Agreement and each agreement and instrument delivered pursuant hereto. No waiver of any breach of any of the provisions of this Agreement or any agreement or instrument delivered pursuant hereto shall be effective unless set forth in a written instrument executed by the party against which enforcement of such waiver is sought, and no waiver of any such breach shall be construed or deemed to be a waiver of any other or subsequent breach.

**18.7 Survival.** The representations, warranties and covenants of the Members contained herein or in any agreement or instrument delivered pursuant hereto shall survive the consummation of the transactions contemplated hereby, and shall not be affected by any investigation which may have been made by any of the parties hereto.

**18.8 Headings.** The headings in this Agreement are inserted for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision.

**18.9 Counterparts.** This Agreement may be executed via facsimile and in multiple counterparts with separate signature pages, each such counterpart shall be considered an original, but all of which together shall constitute one and the same instrument.

[signature page follows]

IN WITNESS WHEREOF, the undersigned has executed this Agreement effective as of the date first set forth above.



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Lisa Marie Cotter-Colangelo  
Member and Manager

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Charles Merin  
Member and Manager

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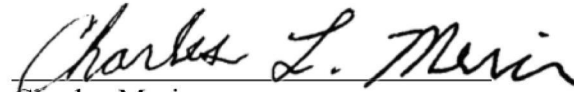
John Tanner  
Member and Manager



IN WITNESS WHEREOF, the undersigned has executed this Agreement effective as of the date first set forth above.

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Lisa Marie Cotter-Colangelo  
Member and Manager



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Charles Merin  
Member and Manager

---

John Tanner  
Member and Manager

IN WITNESS WHEREOF, the undersigned has executed this Agreement effective as of the date first set forth above.

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Lisa Marie Cotter-Colangelo  
Member and Manager

---

Charles Merin  
Member and Manager



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John Tanner  
Member and Manager

**EXHIBIT A****SCHEDULE OF MEMBERS**

<b>MEMBERS AND ADDRESSES</b>	<b>PARTICIPATING PERCENTAGE</b>	<b>CAPITAL ACCOUNT</b>
Lisa Marie Cotter-Colangelo 8007 River Road Richmond, VA 23229	50%	\$16,581
Charles Merin 212 North Cherry Street Falls Church, VA 22046	25%	\$11,054
John Tanner 1307 Armstrong Blvd. Union City, TN 38261	25%	\$11,054
<b>TOTAL</b>	<b>100%</b>	<b>\$38,689</b>